

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NAZOKAT ATAKHANOVA, individually and
on behalf of all others similarly situated,

Plaintiff,
- against -

HOME FAMILY CARE INC., and
ALEXANDER KISELEV

Defendant.

Index No. 16-cv-6707
(KAM)(RML)

**AFFIRMATION OF
LADONNA M. LUSHER**

LADONNA M. LUSHER, an attorney duly admitted to practice law in the Eastern District of New York, hereby affirms under the penalties of perjury that:

1. I am a partner at the law firm of Virginia & Ambinder, LLP, attorneys for Plaintiffs in this action.

2. I submit this declaration in support of Plaintiffs' motion for an order, pursuant to Federal Rules of Civil Procedure 15(a), 20(a), and 21, granting Plaintiffs leave to amend their complaint to add Alexander Kiselev ("Proposed Defendant") as an individual Defendant, and remove the third cause of action under New York Labor Law ("NYLL") alleging improper wage statements and replace it with a NYLL cause of action for failing to provide proper hiring notices (the "Proposed Cause of Action").

3. Named Plaintiff Nazokat Atakhanova brought this action on December 4, 2016, on behalf of herself and a putative class of individuals who furnished labor to Home Family Care Inc. ("Defendant" or "Corporate Defendant") pursuant to the Fair Labor Standards Act (the "FLSA"), 29 U.S.C. §§ 201, et seq., NYLL §§ 190, et seq., §§ 650, et seq., and Title 12 of the New York Code, Rules, and Regulations ("NYCRR") § 142-2.2, to recover unpaid overtime wages allegedly owed to Plaintiffs for work they performed for Defendant.

4. Plaintiffs initially brought their claims solely against the Named Defendant Home Family Care, Inc. However, after engaging in discovery, including deposing the Proposed Defendant, Plaintiffs learned that the Proposed Defendant is the President and owner of Named Corporate Defendant. Proposed Defendant is, and was at all relevant times, an employer of Plaintiffs and therefore is liable for the failure to pay Plaintiffs lawfully owed wages.

5. On August 14, 2018, Your Honor granted Plaintiffs' request to file a motion to amend the complaint.

6. Attached hereto as Exhibit A is Plaintiffs' original Complaint.

7. Attached hereto as Exhibit B is Plaintiffs' Proposed Amended Complaint.

8. Attached hereto as Exhibit C is Plaintiffs' first request for a pre-motion conference to file an amended complaint, dated December 9, 2017. This request was terminated by Your Honor on April 9, 2018. [See ECF No. 23.]

9. Attached hereto as Exhibit D is a transcript of the Deposition of Alexander Kiselev.

Dated: New York, NY
October 8, 2018

VIRGINIA & AMBINDER, LLP

/s/
LaDonna M. Lusher, Esq.